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#11
10/20/04
T.M.

January 8, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re\ Application of: Glenn H. Bostock

Appln. No.: 09/490,268

Examiner: J. Thissell

Filed: January 24, 2000

Group Art Unit: 3635

For: WALL PANELING ASSEMBLY
AND SYSTEM

(Atty. Docket No. 27428-A USA)

STATEMENT ESTABLISHING UNAVOIDABLE DELAY ACCOMPANYING
PETITION FOR REVIVAL OF AN APPLICATION
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

Commissioner for Patents
Mail Stop Petitions
P. O. Box 1450
Alexandria, VA 22313-1450

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JAN 13 2004

Dear Sir:

OFFICE OF PETITIONS

1. Glenn H. Bostock, inventor of the invention disclosed and claimed in U.S. Application No. 09/490,268, entitled "Wall Paneling Assembly and System" (hereafter "the application"), authorized attorney Joseph W. Molasky (Registration No. 20,951) to prepare the application and file it with the U.S. Patent and Trademark Office as evidenced by a facsimile correspondence to attorney Molasky dated June 1, 1999 and provided as Exhibit A. The application was filed on January 24, 2000, the filing being reported to Mr. Bostock in a letter dated February 6, 2000 from attorney Molasky and provided as Exhibit B.

2. A first Patent Office Action (Exhibit C) was mailed to attorney Molasky on April 26, 2000. Attorney Molasky reported the first Action to Mr. Bostock in a letter dated June 12, 2000 (Exhibit D). Attorney Molasky filed a reply to the first Action on October 26, 2000 (Exhibit E). Attorney Molasky reported filing of the reply to Mr. Bostock in a letter dated January 16, 2001 as evidenced by Exhibit F.

3. A second Patent Office Action (Exhibit G) was mailed to attorney Molasky on January 8, 2001, the second Action being final. The second Action was reported to Mr. Bostock in a letter from attorney Molasky dated January 25, 2001 (Exhibit H). Attorney Molasky filed a reply to the second Action on July 9, 2001 (Exhibit I). A Notice of Appeal (Exhibit J) was also filed by attorney Molasky on July 9, 2001. An Advisory Action (Exhibit K), dated August 2, 2001, was mailed to attorney Molasky notifying him that the amendments provided in the reply to the second Action would not be entered. On August 14, 2001, a Notice of Abandonment (Exhibit L) was mailed to attorney Molasky notifying him that the application was abandoned for failure to respond to the second Office Action.

4. In response to repeated telephone requests from Mr. Bostock, attorney Molasky reported filing a reply to the second Action in a letter dated October 17, 2001, provided herewith as Exhibit M. The letter does not report receipt of the Advisory Action of August 2, 2001 (Exhibit K) nor the Notice of Abandonment of August 14, 2001 (Exhibit L). The letter does assure Mr. Bostock that he would be informed when attorney Molasky received word from the Examiner handling the case.

5. After October 17, 2001, and as a result of not receiving any further reports regarding his application, Mr. Bostock attempted repeatedly to contact attorney Molasky by

telephone, as evidenced by the telephone log (Exhibit N) which Mr. Bostock began to keep in view of his concern regarding the progress of the application. The log was kept using ACT!, Version 6.0, a database management program used to record and organize business contacts and events. On those occasions when he was able to talk with attorney Molasky, Mr. Bostock was assured that everything was in order with his application and attorney Molasky was awaiting word from the Examiner regarding his reply to the second Office Action.

6. Having received no response to his telephone inquiry with attorney Molasky of September 24, 2003 (see Exhibit N), in early November 2003, Mr. Bostock contacted another attorney, Charles H. Lindrooth (Registration No. 20,659) and asked him to determine the status of the application, as evidenced by a letter to attorney Lindrooth from Mr. Bostock, Exhibit O. A copy of the application file history was requested on November 24, 2003 as evidenced by a letter from attorney Lindrooth to a Washington, D.C. associate (Exhibit P). Attorney Lindrooth obtained a copy of the file history of the application on December 10, 2003, as evidenced by a letter of transmittal from the Washington D.C. associate, Exhibit Q. The status of the application as abandoned was first reported to Mr. Bostock in a telephone conference between him and attorney Lindrooth on December 11, 2003, and a written report documenting the status was mailed to Mr. Bostock on December 12, 2003. This is evidenced in Exhibit R.

7. Mr. Bostock first became aware of the fact that the application was considered abandoned on December 11, 2003. Up to that time, Mr. Bostock had been misinformed as to the status of the application by attorney Molasky in the letter of October 17, 2001 (Exhibit M) and in the subsequent telephone communications reflected in the telephone log (Exhibit N).

8. In view of the foregoing facts, Mr. Bostock respectfully contends that the delay in reply to the Office Action dated January 8, 2001 (Exhibit G) was unavoidable pursuant to 37 CFR 1.137(a) because: (1) he was diligent in connection with the delay for which the application became abandoned; (2) he could not reasonably be expected to take actions which would have avoided the abandonment which occurred; and (3) he should not be charged with the neglect of attorney Molasky in the prosecution of the application. These points are explained below.

9. Mr. Bostock's diligence is evidenced by his telephone log (Exhibit N) which shows that he inquired, with increasing frequency, as to the status of the application as time progressed after the final written report from attorney Molasky of October 17, 2001 (Exhibit M). Diligence is also demonstrated by Mr. Bostock's actions in obtaining another attorney (Exhibit O) after being unable to contact attorney Molasky despite repeated attempts and leaving messages. The filing of a Petition to Revive the application shortly after learning of the abandonment of the application also demonstrates that Mr. Bostock was diligent.

10. Mr. Bostock relied on attorney Molasky to prosecute the application. He had no reason to believe that attorney Molasky could not be relied upon. Attorney Molasky is a registered patent attorney and listed on the U.S. Patent and Trademark Office web site. Throughout their relationship, prior to October 17, 2001, attorney Molasky gave every indication that he was adequately performing his duty by drafting and filing the application, reporting the receipt of Office Actions and his filings of replies in response. Subsequent to October 17, 2001, attorney Molasky continued to verbally assure Mr. Bostock that all was in order regarding the application, that Mr. Bostock must be patient, that the prosecution of an application takes time. Never was there any

indication that attorney Molasky was unable or unwilling to perform his duties. It is established precedent that, unless an applicant knows or should know that his attorney cannot be trusted with prosecution of an application, the applicant cannot reasonably be expected to take actions which would have avoided abandonment of an application. In re Lonardo, 17 USPQ 2d 1455, 1456 (Comm'r Pat. 1990). The facts as recounted and documented above clearly show that Mr. Bostock could not have known that attorney Molasky could not be relied upon and did not know that the application was abandoned. Consequently, in view of Lonardo, it cannot reasonably be said that Mr. Bostock should have taken action that would have avoided abandonment of the application.

11. It is established in Link v. Wabash R.R., 370 U.S. 626, 633-34 (1962), that the neglect or exercise of judgement of an attorney is chargeable to his client, and thus, the client would have to suffer the consequences of his attorney's conduct. Link is not applicable in this case, however, as established in Lonardo at 1458:

When an attorney intentionally conceals a mistake he has made, thus depriving the client of a viable opportunity to cure the consequences of the attorney's error, the situation is not governed by the stated rule in Link for charging the attorney's mistake to his client.

Lonardo further states at 458:

When a client does not knowingly and freely acquiesce in his attorney's neglectful conduct, but instead is misled into believing that the attorney is industrious, dismissal is not only a harsh step but one for which the circumstances provide little support for an agency theory as rationale.

Clearly the situation at hand is governed by Lonardo and not Link. Mr. Bostock was never informed of the Advisory Action (Exhibit K) or the Notice of Abandonment (Exhibit L) and was apparently deliberately misled by attorney Molasky in the letter of October 17, 2001 (Exhibit M) which did not report receipt of either document despite the fact that they were mailed to attorney Molasky more than two months prior to the date of the October 17, 2001 letter to Mr. Bostock. Attorney Molasky clearly knew or should have known of both the Advisory Action and the Notice of Abandonment and, one can only conclude, deliberately withheld the information from Mr. Bostock, and continued to do so in spite of Mr. Bostock's continued requests for information subsequent to the October 17, 2001 letter.

12. Clearly, abandonment of the application was unavoidable as to Mr. Bostock because: (1) he was and continues to be diligent in his efforts regarding prosecution of the application; (2) he was not aware of, nor should he have been aware of, his attorney's apparent neglect and inaction that led to the abandonment of the application, and thus, he could not reasonably have been expected to take action that would have avoided abandonment; and (3) he was continually, and apparently deliberately, misled as to the status of the application by his attorney and should, therefore, not be charged with his attorney's neglect and inaction which led to abandonment of the application. For these reasons it is respectfully requested that the abandonment of the application be considered unavoidable and reinstated for further prosecution on the merits.

13. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable

Appln. No. 09/490,268

- 7 -

January 8, 2004

by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date:

1/9/04

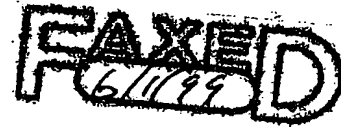
John A. Chionchio
John A. Chionchio, Reg. No. 40,954
Patent Counsel for Glenn H. Bostock

M:\DLarsen\BOSTOCK COMPANY\27428AUSA\27428ASUPPORT.STATEMENT

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JAN 13 2004

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Date: 6/1/99

To:

Joseph Molasky
Phone: 215-822-3324
Fax: 215-997-2801

CONFIDENTIAL

From: Bostock Company Inc.
Glenn Bostock
Phone: 215-442-0820
Fax: 215-442-0821

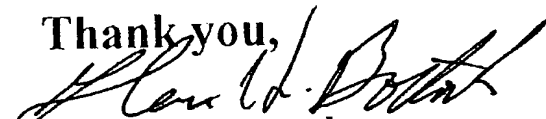
Pages:2

Subject: Continuation -in-part

Joe,

The drawings (fig. 11,12,13 & 14) All look good as is.

Thank you,



Glenn Bostock

Joseph W. Molasky
& Associates

Attorneys at Law

Patents, Trademarks
Copyrights

Patents International
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4 Limskeln Pike
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May 27, 1999

Glenn H. Bostock
Bostock Company, Inc.
133 Horsham Road
Horsham, PA 19044

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JAN 13 2004

OFFICE OF PETITIONS

Re: Proposed Continuation-in-Part Application based upon
U.S. Serial No. 09/235,620; G. BOSTOCK
Case 720A: WALL PANELING ASSEMBLY AND SYSTEM

Dear Glenn:

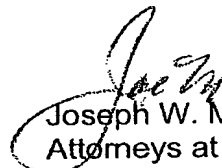
Enclosed are the additional drawings on which we will base your Continuation-in-Part (CIP) patent filing.

Please examine all figures carefully and tell us whether they accurately depict your invention and cover the point of novelty. *Drawings look good. JWB. 6/1/99*

Once we have your approval, we will begin drafting the specification and claims and send a copy for your assessment in due course.

The drawings should be self-explanatory, but if you have questions, please don't hesitate to contact me.

Kindest regards,


Joseph W. Molasky & Associates
Attorneys at Law

JWM/gds

Enclosure: Drawings (2 Sheets; Figures 11-14)

13784-6
Fig. 11

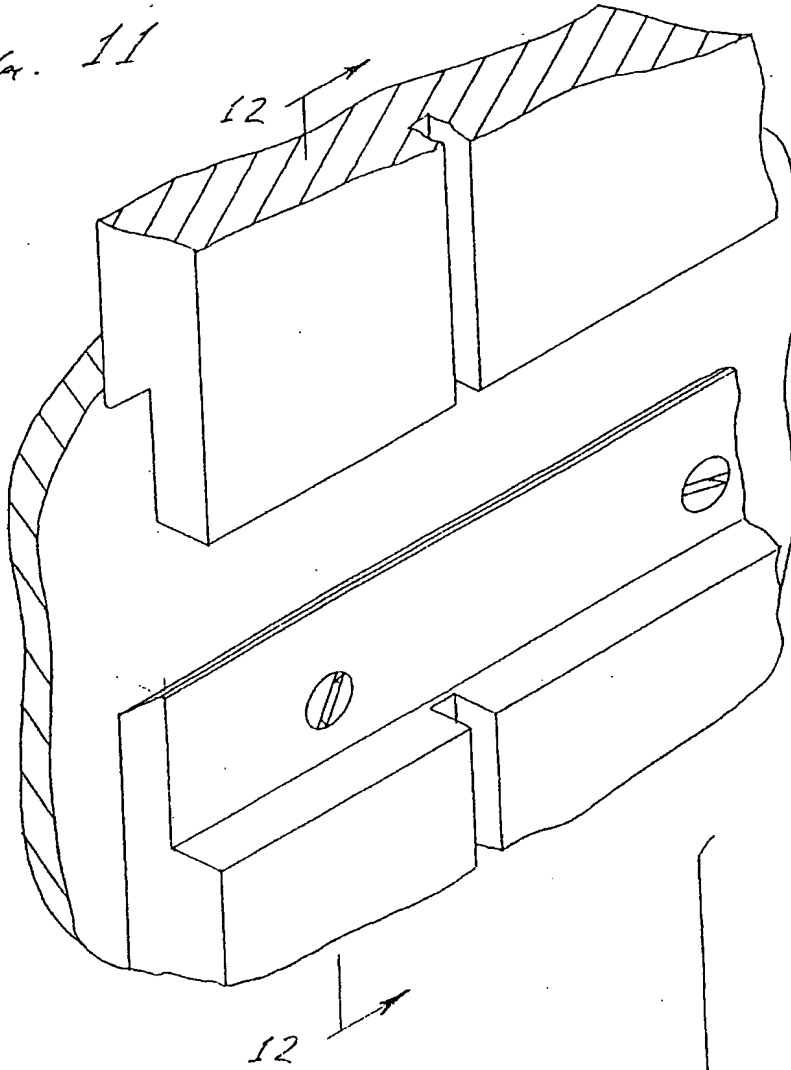


Fig. 12

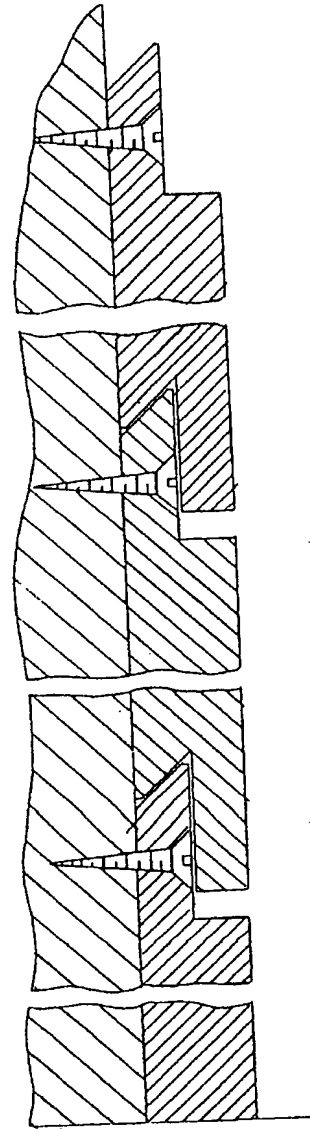


Fig. 13

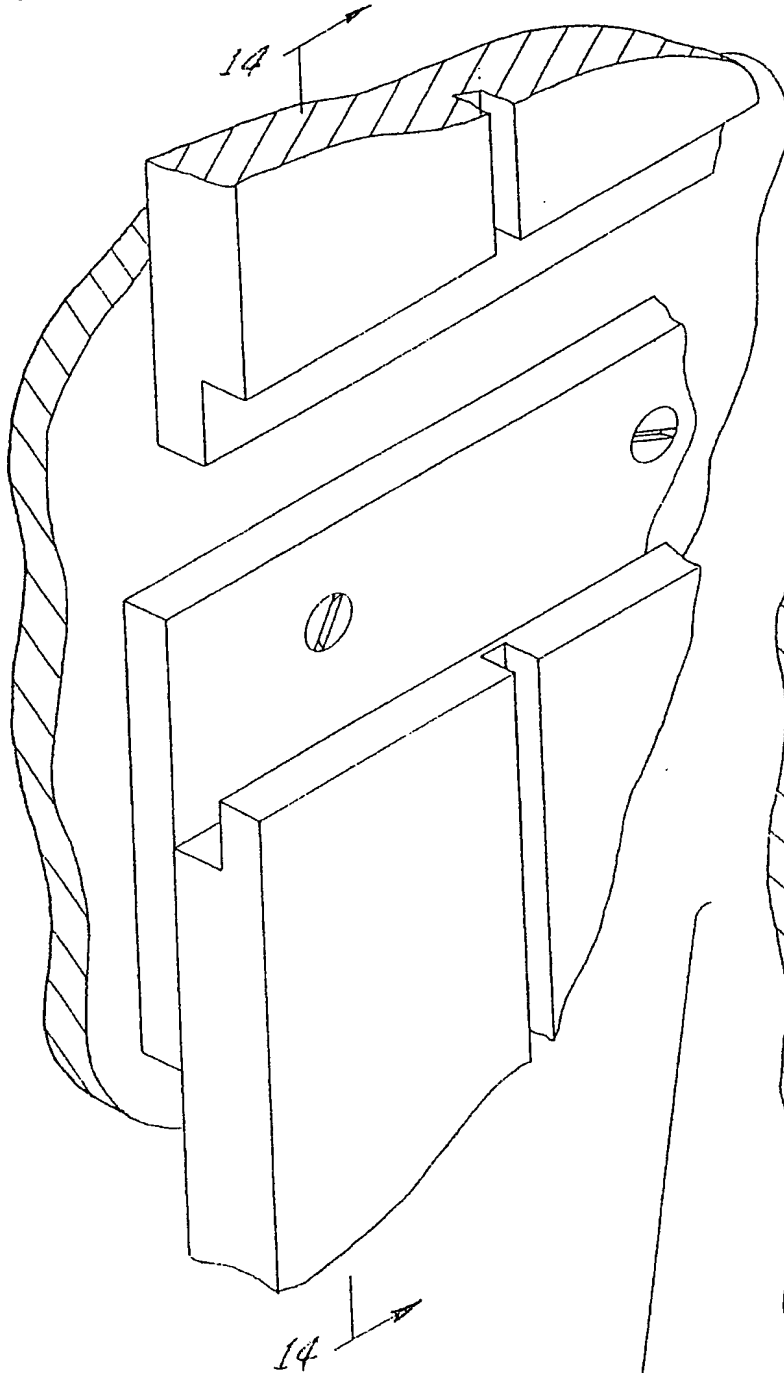
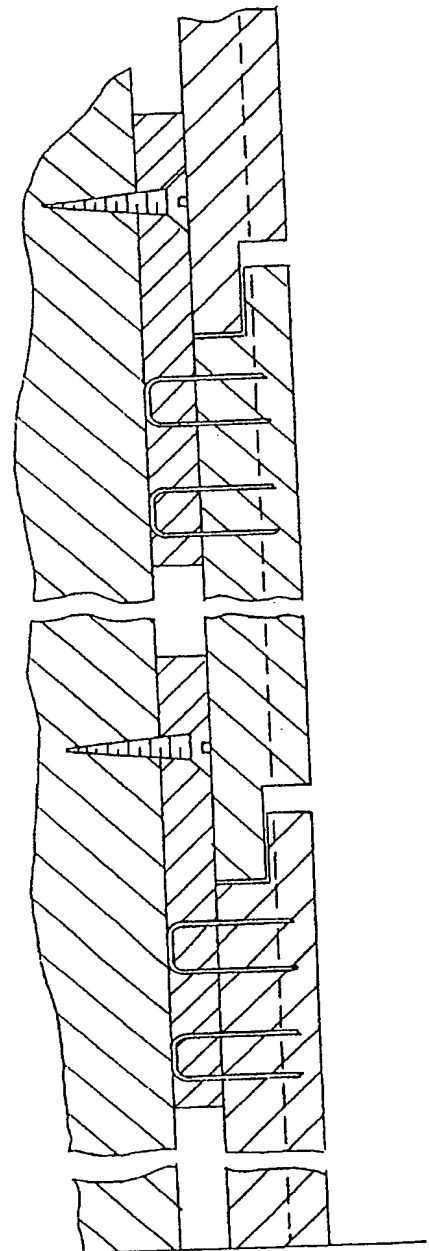


Fig. 14



*Joseph W. Molasky
& Associates*

Attorneys at Law

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Copyrights*

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February 6, 2000

Glenn H. Bostock
Bostock Company, Inc.
133 Horsham Road
Horsham, PA 19044

Re: New U.S. Continuation-in-Part Application; G. H. BOSTOCK
Corresponding Parent: U.S. Serial No. 09/235,620
Case 720A; A NOVEL PANELING SYSTEM

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OFFICE OF PETITIONS

Dear Glenn:

Enclosed is a copy of your CIP Application as filed:

- (1) Transmittal Letter Dated January 24, 2000
- (2) Application: Cover Page, Specification Pages 1-25, Claims 1-25, Abstract, and Drawings (5 Sheets, Figures 1-12);
- (3) Declaration and Power of Attorney;
- (4) Assignment in favor of Bostock Company Inc.; and
- (5) Express Mail Certificate.

Filing Date: We filed this application under the Patent Office Certification Program on January 24 using the Postal Service as our depository. Accordingly, it will receive a same-day filing date retroactive to January 22, 2000. When we have the Official Filing Receipt, we will forward a copy for your records.

CIP Status: This application is a Continuation-in-Part (CIP) of parent Application Serial No. 08/235,620, and it is entitled to the benefit of the parent filing date (January 22, 1999) for all common subject matter.

This CIP and your 'parent' case (U.S. Serial No. 09/235,620) cover the same invention; however, as you know, the CIP text has been revised extensively and broadened to include new features so that, as a practical matter, the specification and claims are new. Figures 11 and 12 represent new preferred embodiments of the invention.

G.H. Bostock

February 6, 2000

-2-

Note: A CIP is an application filed while an earlier or first application (of the same inventor) is still pending. It discloses subject matter common to both cases and, also, subject matter which is new. Those claims of the CIP, which are supported by the earlier filed case (i.e., the 'parent' application), are given the benefit of the earlier or first filing date and those claims which are not supported by the first application, are accorded the filing date of the CIP.

Prosecution: This application will be given an examination and the Examiner will give us his report (i.e., Official Action) within about five to six months. A copy of the Examiner's Action, together with our advice, will be forwarded to you upon receipt.

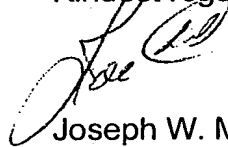
Information Disclosure Statement (IDS): An IDS must be made of record in your official file within three months, that is, on or before April 24, 2000. The IDS which we filed in Serial No. 09/235,620 is also relevant to this CIP application and, therefore, unless you advise to the contrary, we will give the Examiner the same references. If you are not in agreement or if you are aware of other relevant prior art which should be included in the IDS, please tell us. We have scheduled this case for IDS Filing on March 20, 2000.

Assignment: We have recorded your Assignment in favor of Bostock Company, Inc., and paid the Recordation Fee. The Recorded Deed, once returned, will be forwarded to you for safekeeping.

PCT Filing: An International (i.e., foreign) application corresponding to this CIP was also filed under the Patent Cooperation Treaty and we are giving you the particulars on this in a letter which is being simultaneously mailed.

If you have questions please let me know.

Kindest regards,



Joseph W. Molasky & Associates
Attorneys at Law

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OFFICE OF PETITIONS

JWM/lrd

Enclosures: Items 1-5, supra.
Debit Note No. 4446

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark OfficeAddress: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/490,268 01/24/00 BOSTOCK

G 720a

PM82/0426

EXAMINER

Joseph W Molasky & Associates
4 S Limekiln Pike
Chalfont PA 18914

THISSELL, J

ART UNIT

PAPER NUMBER

3635

DATE MAILED:

04/26/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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JAN 13 2004

OFFICE OF PETITIONS

Office Action Summary

Application No.
09/490,268

Applicant(s)

Bostock

Examiner
Examiner J. Thissell

Group Art Unit
3635



☒ Responsive to communication(s) filed on Jan 24, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

- ☒ Claim(s) 1-25 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-25 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of References Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Priority

1. It is noted that this application appears to claim subject matter disclosed in prior copending Application No. 09/235620, filed January 22, 1999. A reference to the prior application must be inserted as the first sentence of the specification of this application if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e) or 120. See 37 CFR 1.78(a). Also, the current status of all nonprovisional parent applications referenced should be included.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 12 and 13, "the depth" of the groove is claimed to be greater than the length of the tongue. This is indefinite since it is not clear whether the depth of the groove is from the rear leg or the front leg, which are claimed to be different lengths.

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Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-11, 12-16, and 22-25 are provisionally rejected under the judicially created doctrine of double patenting over copending Application No. 09/235620. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: interlocking panel pieces with a groove and recess, the recess being greater than the groove; the panel pieces being attached to a support structure; the fastening means by which the panel pieces are attached to the support structure; and the method of attaching the panel pieces.

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Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dail ('640). Dail discloses a panel assembly having panel pieces 22 with front and rear sides, pairs of opposing side and edge faces, one edge being formed as an elongate projection 26, a second edge face formed as an elongate recess, and in Figure 3 a space can be seen between the end of the projection and the recess which indicates that the recess is of greater depth than the projection.

Regarding claims 2, 3, 13, and 14, the panel pieces are joined to one another and are secured to a support structure 20 which can be considered a studded frame.

Regarding claims 8, 9, and 11, the panel assembly inherently includes a top and bottom panel pieces that are located at the uppermost and lowermost locations of the assembly when

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viewing the assembly straight on. These pieces, being similar to the piece discussed above, also have grooves in them.

Regarding claim 10, Dail's indented shadow line can be seen in Figure 3 on the front face (bottom) where the two panels meet each other.

6. Claims 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Frashour et al. ('553). Frashour discloses a panel assembly with a plurality of panel pieces 10 joined together in matching engagement and secured to a support structure 20 that can be considered a studded frame. Each panel piece has a front and rear side, two opposing edge faces, one edge face with a beveled recess 56 that extends from one side of the panel piece to another, the recess is defined by a projecting first flange whose outer wall is coextensive with the rear side (side attached to 20) of the panel piece.

There exists a second edge face that also has a beveled recess that matches the first edge face, and when joined together there exists an elongate space that demarcates one piece from another (32,34,52, and space at support member).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-7, 15, 16, 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dail ('640). Dail discloses a panel assembly as stated above in section 5, except for the following features:

Regarding claims 4, 15, and 23, Dail does not state that the support structure is a wall of an elevator. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use Dail's paneling assembly in an upright vertical position on a wall, since basic panel pieces with tongue and groove interconnection is commonly used interchangeably with floors, walls, and ceilings. An elevator wall would simply be considered a design choice, since the assembly could be attached to any type of room or wall with the proper support elements.

Regarding claims 5-7, 16, and 24, Dail discloses a panel assembly as stated above in section 5, also reciting that the panels could be nailed or otherwise fastened to the support members (column 2, lines 15-16). Dail does not specifically state that a screw or adhesive could be utilized, however, these fasteners are just another form of commonly known fasteners in the art of building construction that perform the same function. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a screw or adhesive to fasten the panels to the support member.

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Regarding method claims 22-25, since all of the structural elements are disclosed and discussed in sections 5 and 7, the steps of securing panels to a support structure, and interlockingly engaging the panels pieces, which inherently forms a space extending from the ends of the sides, are considered the obvious method of creating a panel assembly.

8. Claims 17 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frashour et al. ('553).

Regarding claim 17, Frashour discloses a panel assembly with a plurality of panel pieces 10 joined together in matching engagement and secured to a support structure 20. Each panel piece has a front and rear side, two opposing edge faces, one edge face with a beveled recess 56 that extends from one side of the panel piece to another, the recess is defined by a projecting first flange whose outer wall is coextensive with the rear side (side attached to 20) of the panel piece.

There exists a second edge face that also has a beveled recess that matches the first edge face, and when joined together there exists an elongate space that demarcates one piece from another (32,34,52, and space at support member).

Frashour et al. does not disclose the panel assembly in an upright position with the panels disposed atop one another, however, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use Frashour's paneling assembly in an upright vertical position on a wall, since basic panel pieces with tongue and groove interconnection is commonly used interchangeably with floors, walls, and ceilings.

Application/Control Number: 09/490268

Page 8

Art Unit: 3635

Regarding claims 20 and 21, Frashour discloses a panel assembly with a plurality of panel pieces 10 joined together in matching engagement and secured to a support structure 20. Each panel piece has a front and rear side, two opposing edge faces, one edge face with a beveled recess 56 that extends from one side of the panel piece to another, the recess is defined by a projecting first flange whose outer wall is coextensive with the rear side (side attached to 20) of the panel piece.

There exists a second edge face that also has a beveled recess that matches the first edge face, and when joined together there exists an elongate space that demarcates one piece from another (32,34,52, and space at support member).

Frashour does not disclose that the support structure is an elevator wall, however, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use Frashour's paneling assembly in an upright vertical position on a wall, since basic panel pieces with tongue and groove interconnection is commonly used interchangeably with floors, walls, and ceilings. An elevator wall would simply be considered a design choice, since the assembly could be attached to any type of room or wall with the proper support elements.

Frashour recites that the panels are secured to the support structure by a nail means, not by a screw means. However, screw fasteners are just another form of commonly known fasteners in the art of building construction that perform the same function as nails. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to interchange the fasteners and use a screw to fasten the panels to the support member.

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Art Unit: 3635

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner J. Thissell whose telephone number is (703) 306-5750.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist in Technology Center 3600 whose telephone number is (703) 308-2168.


jit
CHRISTOPHER T. KENT
PRIMARY EXAMINER

April 23, 2000

FORM PTO-892	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	SERIAL NO. 09/490268	GROUP ART UNIT 3635	ATTACHMENT TO PAPER NO.	3
NOTICE OF REFERENCES CITED		APPLICANT(S) Bostock			

U.S. PATENT DOCUMENTS

*	DOCUMENT NO.	DATE	NAME	CLASS	SUB-CLASS	FILING DATE
A	2,898,640	8/1959	Dail	52	506.06	
B	3,200,553	8/1969	Frashour	52	592.4	
C	3,347,048	10/1967	Brown et al.	405	16	
D	4,100,710	7/1978	Kowallik	52	309.9	
E	5,570,554	11/1996	Searer	52	539	
F						
G						
H						
I						
J						
K						

FOREIGN PATENT DOCUMENTS

*	DOCUMENT NO.	DATE	COUNTRY	NAME	CLASS	SUB-CLASS
L						
M						
N						
O						
P						
Q						

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)

R	
S	
T	
U	

EXAMINER Jennifer I. Thissell	DATE April 23, 2000	Form892ccs2106b
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* A copy of this reference is not being furnished with this office action.
(See Manual of Patent Examining Procedure, section 707.05(a).)

*Joseph W. Molasky
& Associates*

Attorneys at Law

*Patents, Trademarks
Copyrights*

*Patents International
Chalfont Centre
4 Limokila Pike
Chalfont, PA 18914*

Cable Address: JOMOPAT, Chalfont

Phone: (215) 822-3324

Facsimile: (215) 997-2801

June 12, 2000

Glenn H. Bostock
440 Blairmill Road
Hatboro, PA 19440

Re: U.S. CIP Appln. No. 09/490,268; G. H. BOSTOCK
Corresponding Parent: U.S. Serial No. 09/235,620
Case 720A: A NOVEL PANELING SYSTEM

Dear Glenn:

We have received in your captioned case the Examiner's First Action:

- 1) Official Action Dated April 26, 2000 (Paper No. 3);
- 2) Office Action Summary; Attachment to Paper No. 3; and
- 3) Notice of References Cited:

<u>Patentee</u>	<u>U.S. Patent No.</u>
DAIL	2,898,640
FRASHOUR	3,200,553
BROWN	3,347,048
KOWALLIK	4,100,710
SEARER	5,570,554

- 4) Information Disclosure Statement (Examiner approved copy).

Only Dail and Frashour are relevant. The remaining references have been cited merely to show the state of the art.

Claims 1-25 are in this application. No claims have been allowed.

The numbered paragraphs below correspond to the like-numbered paragraphs

G. Bostock

June 12, 2000

-2-

in the Official Action.

1. This is your CIP Filing and we have been asked to add to the text a reference to your earlier filed case. We will attend to this in our reply.

2. Claims 12-16 are said to be indefinite because they fail to define what is meant by the "depth" of the groove in your panel pieces.

Specifically, the Examiner wants to know if the depth is measured by reference to the panel's front leg or rear leg.

The groove is measured by reference to the rear leg as shown in Figures 2 and 3, and we will amend Claims 12 and 13 to include this feature.

3 & 4. Claims 1- 11, 12-16 and 22-25 are rejected on double patenting. This rejection is based on what the Examiner perceives as an overlap in the claimed subject matter of this application and co-pending application No. 09/235,620.

Double patenting is a 'judicially created doctrine'; it means simply that where there is one invention, only one patent can issue. In other words, in the Examiner's view, we are claiming the same invention twice.

To some extent, the Examiner is correct. The claims in both applications overlap to some extent and we shall have to maintain a clear dichotomy between the subject matter claimed.

However, there is a body of law which holds that a Terminal Disclaimer can be used to overcome a double patenting rejection when the overlapping claims differ to a significant degree.

The Examiner is aware of this and he has raised the issue in the Official Action (page 3, second paragraph). The Examiner's concern is that the claims do not read literally on one another. If they do not (and he is satisfied that they are sufficiently distinct), then a Terminal Disclaimer will overcome the double patenting rejection.

When we respond, we will include a Terminal Disclaimer and argue that the differences which separate these two 'inventions', that is, the present invention and the one claimed in your parent case, are sufficient to warrant two separate patents.

If the Terminal Disclaimer is accepted and two patents issue, they will have to expire at the same time so that there will not be any unlawful extension of the patent monopoly. Also, the patents must be commonly owned.

G. Bostock

June 12, 2000

-3-

Note: "Double patenting" applies only to claims which cover common subject matter. Accordingly, it does not apply to those present claims which cover your 'beveled panel pieces'. The 'beveled' pieces are shown in Figures 11 and 12 and they are covered by present Claims 17-21. They are new and have no antecedence in your parent case.

5. Claims 1-3 and 8-14 are rejected as being fully met by Dail which shows ceiling panels joined to one another in a horizontal plane.

One side-edge of each panel is equipped with a mortise 24 and the opposite side-edge is equipped with a tenon 26 (Figure 3).

The length of the tenon is shorter than the depth of the mortise so that, when joined, a space 28 is formed between the assembled pieces.

I would respond by pointing out that, unlike Dail, your panel pieces, when joined, afford an elongate space or accent line 14 (Figure 3). *a larger space or accent line isn't enough.*

By contrast, the panel pieces of Dail, when joined, abut one another and afford no such line or space. *Triangular space in Fig 3, mentioned by Examiner p5*

6. Claims 18 and 19 are rejected as being fully met by Frashour which describes flooring strips joined to one another by tongue and groove means.

The end segments of these strips are beveled and the Examiner reasons that they are joined to one another in a manner identical to that of your panel pieces.

We would reply by pointing out that in your invention the panel pieces interlock in a beveled manner and, once joined, they form an elongate recess or groove.

By contrast, the flooring strips of Frashour, when joined, abut one another and form no elongate groove or recess (Figure 2). Absent such a teaching, it is not understood how Frashour can be considered relevant. *at one surface*

2, 52, 34, and one next to 20 are ~~grooves~~ recesses? *Triangular groove shown, it*

7. Claims 4-7, 15, 16 and 22-25 are rejected as being unpatentable on the ground that it would be obvious to use the ceiling panels of Dail for wall paneling purposes.

I would argue that this is not a matter of design choice. Unlike your assembly, the panel pieces of Dail abut one another. This abutment is the problem which your invention is designed to avoid and, therefore, it does more to lead away from your

G. Bostock

June 12, 2000

-4-

concept than to suggest it.

8. Claims 17, 20 and 21 are rejected as unpatentable over Frashour on the ground of obviousness [(35 USC 103(a)].

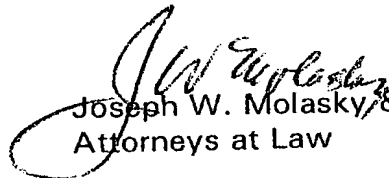
Frashour discloses panel pieces whose opposing edge faces are beveled and interlock with panels of like-configuration. The assembled panels are used as flooring. The Examiner reasons that it would be obvious to place the flooring of Frashour in an upright position to serve as wall paneling; however, Frashour does not eliminate the cantilever force effect which results when the tongue end of one panel comes into contact with the groove-base of an adjoining panel. *

✓ The present invention (Claims 17, 20 and 21) eliminates this cantilever effect and creates, instead, a shear force. Frashour neither teaches nor suggests such an assembly nor does he recognize the problem which your invention is designed to solve.

Please tell me if you agree or give me your view.

The deadline for reply to the Official Action expires July 26, 2000, and, therefore, your prompt instructions would be appreciated.

Kindest regards,


Joseph W. Molasky & Associates
Attorneys at Law

JWM/lrd

Enclosures: Items 1-4, supra.
Debit Note No. 4543

The cantilever force in Frashour results from the outer surfaces touching, not from tongue hitting groove-base

CERTIFICATE OF MAILING

Correspondence: Amendment
Terminal Disclaimer /Check #6243
Certificate of Mailing
Check No. 6244

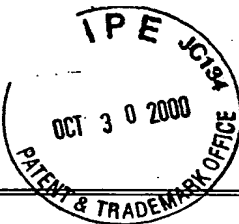
Assistant Commissioner for Patents
Washington, D.C. 20231

on Oct. 26, 2000.

Joseph W. Molasky

Signature:

re: James W. Moloney



GAU 3635#

AMENDMENT TRANSMITTAL LETTER			ATTORNEY DOCKET NO. 720A
SERIAL NO. 09/490,268	FILING DATE 01/24/00	EXAMINER THISSELL, J.	GROUP ART UNIT 3635
INVENTION WALL PANELING ASSEMBLY AND SYSTEM			RECEIVED NOV 05 2000

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

TO 3600 MAIL ROOM

☒ Small entity status of this application under 37 CFR 1.27 has been established by a Verified Statement previously submitted.

☐ A Verified Statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.

☒ No additional fee is required.

The fee has been calculated as shown below:

					SMALL ENTITY		OTHER THAN A SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO PREVIOUSLY PAID FOR	EXTRA	RATE	ADDITIONAL FEE	RATE	ADDITIONAL FEE
TOTAL	25	MINUS	25				X \$	\$
INDEP	7	MINUS	7				X \$	\$
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS					\$		X \$	\$
					TOTAL ADDIT FEE		TOTAL	\$

☐ A check in the amount of \$_____ to cover the filing fee is enclosed.

Oct. 26, 2000
Date

Joseph W. McLaughlin
Signature



#4
8
11/10/00

Atty. Case 720A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Glenn Bostock
Serial No. : 09/490,268
Filed : January 24, 2000
For : WALL PANELING ASSEMBLY AND SYSTEM

Examiner : J. Thissell
Art Unit : 3635
Atty. Case : 720A

Assistant Commissioner for Patents
Washington, D.C. 20231

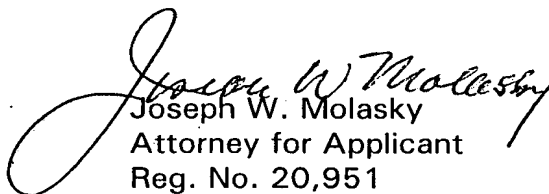
PETITION AND FEE FOR EXTENSION OF TIME
UNDER 37 C.F.R. 1.136(A)

Dear Sir:

Applicant hereby petitions for a three-month extension of time to respond to the Office Action (Paper No. 3) mailed April 26, 2000. A check for the extension fee [37 C.F.R. § 1.17(a)] is attached.

An Amendment responsive to the outstanding Office Action is being filed simultaneously herewith.

Respectfully submitted,


Joseph W. Molasky
Attorney for Applicant
Reg. No. 20,951
4 S. Limekiln Pike
Chalfont, PA 18914
Phone: (215) 822-3324

Enclosure: Check No. 6244



4/A
8
11/6/00

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : G. Bostock

Examiner: J. Thissell

Serial No.: 09/490,268

Group Art: 3635

Filed : January 24, 2000

Case : 720A

Title: WALL PANELING ASSEMBLY AND SYSTEM

Box Amendment
Commissioner of Patents and Trademarks
Washington, D.C. 20231

RECEIVED

NOV 06 2000

AMENDMENT; RULE 111

TO 3600 MAIL ROOM

Sir:

In response to the Office action dated April 26, 2000 (application Paper No. 3), please amend the above-identified application as follows:

IN THE SPECIFICATION:

Page 1, line 1, at the beginning of the text, please insert the following:

--Cross-Reference to Related Application

21 This application is a continuation under 37 CFR 1.53(b) of Application No. 09/235,620, filed January 22, 1999.--
now abandoned.

IN THE CLAIMS:

Please amend the claims as follows:

92 1. (Amended) A panel piece comprised of a front side, a rear side, a pair of opposing side faces and a pair of opposing edge faces for interlockingly engaging the edge faces of a like panel;

one edge face of said pair of opposing edge faces [being formed as] including an elongate projection with an end termination and,

[the] a remaining edge face of said pair of opposing edge faces [being formed as] comprising an elongate recess including a bottom surface for receiving said projection;

a2
cont.

said recess being of greater depth than the length of said projection, such that when the panel is joined to a like panel said elongate projection end termination does not contact said elongate recess bottom surface, leaving an open space therebetween, [the assembled pair combine] to afford a demarcation line in the form of an elongate space which extends inwardly from the respective ends of each opposing side face.

2. (Amended) A panel assembly comprised of a plurality of like panel pieces joined to one another in matching engagement and secured to a support structure, each piece consisting essentially of a front side, a rear side, a pair of opposing side faces and a pair of opposing edge faces for interlockingly engaging the edge faces of a like panel, wherein each panel piece is formed such that

one edge face of said pair of opposing edge faces [being formed as] including an elongate projection with an end termination and,

[the] a remaining edge face of said pair of opposing edge faces [being formed as] comprising an elongate recess including a bottom surface for receiving said projection;

said recess being of greater depth than the length of said projection, such that when the panel is joined to a like panel said elongate projection end termination does not contact said elongate recess bottom surface, leaving an open space therebetween, [the assembled pair combine] to afford a demarcation line in the form of an elongate space which extends inwardly from the respective ends of each opposing side face.

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12. (Amended) A panel piece comprised of a front side, a rear side and a pair of opposing edge faces for interlockingly engaging the edge faces of a like panel, said panel piece comprising

[one] a first edge face of said pair of opposing edge faces being formed as a tongue between a front edge flange and a rear edge flange;

[the] a second edge face of said pair of opposing edge faces being formed as a groove comprised of a rear leg, a front leg and a base member, said rear leg being greater in length than said front leg;

said tongue being insertable within said groove, the depth of [which is] said groove along the rear leg being greater than the length of said tongue, so that in their assembled mode the rear edge flange of said first edge faces rests upon said rear leg of said second edge face so as to form an open space [is formed] between the tongue end and the base of the groove.

23 out
13. (Amended) A panel assembly comprised of a plurality of like-panel pieces joined to one another in matching engagement and secured to a support structure, each panel piece consisting essentially of a front side, a rear side and a pair of opposing edge faces for interlockingly engaging the edge faces of a like panel, wherein each panel piece is formed as comprising

[one] a first edge face of said pair of opposing edge faces being formed as a tongue between a front edge flange and a rear edge flange;

[the] a second edge face of said pair of opposing edge faces being formed as a groove comprised of a rear leg, a front leg and a base member, said rear leg being greater in length than said front leg;

said tongue being insertable within said groove, the depth of [which is] said groove along the rear leg being greater than the length of said tongue, so that in their assembled mode the rear edge flange of said first edge faces rests upon said rear leg of said second edge face so as to form an open space [is formed] between the tongue end and the base of the groove.

4
17. (Amended) A panel piece for constructing a paneled assembly made up of any number of such panel pieces disposed atop one another, said panel piece comprising:

a front side and a rear side;

two opposing edge faces, one edge face being formed with a beveled recess which extends from [one] said front side to said rear side of the panel piece [to the other]; said recess being defined by a projecting first flange whose outer wall is coextensive with the rear side of said panel piece;

a second edge face of said two opposing edge faces, also with a beveled recess which extends from said front side to said rear side and which is matching of the beveled recess formed in the first edge face, said recess being defined by

a projecting second flange the length of which is greater than that of the first flange, such that the joining of two like panel pieces results in an elongate space which demarcates one piece from another.

18. (Amended) A panel assembly comprised of a plurality of like panel pieces joined to one another in matching engagement and secured to a support structure, each panel piece comprising

a front side and a rear side;

two opposing edge faces, one edge face being formed with a beveled recess which extends from [one] said front side to said rear side of the panel piece [to the other], said recess being defined by a projecting first flange whose outer wall is coextensive with the rear side of said panel piece;

a second edge face of said two opposing edge faces; also with a beveled recess which extends from said front side to said rear side and which is matching of the beveled recess formed in the first edge face, said recess being defined by a projecting second flange the length of which is greater than that of the first flange, such that the joining of two like panel pieces results in an elongate space which demarcates one piece from another.

REMARKS

Reconsideration of rejected claims 1-25 is respectfully requested.

In the Office action dated April 26, 2000 (application paper No. 3), the specification was objected to and the claims were rejected under 35 USC §§ 112, second paragraph, 102(b), and 103(a). Claims 1-16 and 22-25 were also provisionally rejected by the Examiner under the judicially-created doctrine of double patenting over copending Application No. 09/235620. The Examiner's various objections and rejections will be discussed below in the order appearing in the Office action.

PRIORITY

The Examiner first noted that the present application claims subject matter from a prior copending application. As instructed by the Examiner, the

specification has been noted to include a reference to copending Application No. 09/235,620 as the first sentence of the specification, since applicant intends to rely on the earlier filing date of this application.

35 USC § 112, second paragraph Rejection – Claims 12-16

The Examiner first rejected claims 12-16 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the present invention. In particular, the Examiner refers to the phrase "the depth" of the groove as used in claims 12 and 13 as being "indefinite", since the depth could be measured from either the rear leg or the front leg, resulting in different lengths. In response, applicant has amended claims 12 and 13 to define the "depth" of the groove in relation to the *rear leg* of the edge face. It is asserted that this amendment is sufficient to overcome the Examiner's 35 USC 112, second paragraph rejection and the applicant respectfully requests the Examiner to reconsider this rejection and find claims 12-16 to be in condition for allowance.

DOUBLE PATENTING

Claims 1-16 and 22-25 were provisionally rejected by the Examiner under the judicially-created doctrine of double patenting over copending Application No. 09/235,620. Applicant is including with this response a **Terminal Disclaimer** to obviate the double patenting rejection such that no claims which would issue from this application will extend in term beyond those that issue in the above-mentioned copending application.

35 USC § 102(b) Rejection – Claims 1-3, 8-14

The Examiner next rejected claims 1-3 and 8-14 under 35 USC 102(b) as being anticipated by US Patent 2,898,640 (Dial). In the rejection, the Examiner cites Dial as disclosing "a panel assembly having panel pieces 22 with front and rear sides, pairs of opposing side and edge faces, one edge being formed as an elongate projection 26, a second edge face formed as an elongate recess, and in Figure 3 a space can be seen between the end of the projection and the recess which indicates that the recess is of greater depth than the projection".

In response to this rejection, applicant has amended claims 1, 2, 12 and 13 to define a panel piece structure configured to include "an open space" between the recess (groove) and projection (tongue) of the interlocking panels. As discussed in the specification, by maintaining a gap between these two pieces, any cantilever force is transferred into shear force along the length of the joining surfaces (e.g., flange 36 and shoulder 38, as shown in FIG. 3). In contrast, the Dial reference cited by the Examiner does not include "an open space" between the mated ceiling panels. Instead, a significant aspect of Dial is the inclusion of a v-shaped reinforcing strip 30 disposed within each space between the joined pieces. Thus, a cantilever force will still exist in this arrangement as the force is transferred from tenon 26 through strip 30 to the bottom surface of mortise 24. In contrast, the arrangement of the present invention *intentionally* leaves a gap between the end termination of the projection 20 and surface 32 of groove 22. As stated in the specification at page 5, beginning at line 16, "[t]he virtue of this invention resides in the elimination of that cantilever force effect, which is associated with known panel systems. This cantilever effect results when the tongue end of one panel comes into contact with the base of the groove in an adjoining panel. The present invention eliminates this cantilever effect by transferring the exerted force onto the rear leg and shoulder of the adjoining panel pieces. The result is a shear force which distributes itself evenly onto the abutting portions of the joined end panels and, also, onto the fastening means employed".

It is asserted that Dial's inclusion of v-shaped reinforcing strip 30 will allow the cantilever force to continue to exist and, therefore, this reference cannot be found to anticipate the subject matter of the present invention as defined by claims 1-3 and 8-14. Applicant thus respectfully requests the Examiner to reconsider this rejection and find these claims to be in condition for allowance.

35 USC § 102(b) Rejection – Claims 18 and 19

Claims 18 and 19 were next rejected by the Examiner under 35 USC 102(b) as being anticipated by US Patent 3,200,553 (Frashour et al.). The Examiner particularly cited Frashour et al. as teaching "a panel assembly with a plurality of panel pieces joined together in matching engagement and secured to

a support structure ... each panel piece has a front and rear side, two opposing edge faces, one edge face with a beveled recess 56 that extends from one side of the panel piece to another, the recess is defined by a projecting first flange whose outer wall is coextensive with the rear side ... a second edge face that also has a beveled recess that matches the first edge face, and when joined together there exists an elongate space that demarcates one piece from another".

In response, applicant asserts that the Frashour et al. arrangement can be distinguished in that both the projection 38 and space 52 are formed to be maintained in the interior of the floor boards when joined. In contrast, the arrangement defined by claims 18 and 19 includes a beveled edge that is formed to extend from "said front face to said rear face". The beveled cavity is so formed as well. The beveled openings thus extend through the entire width of the panel, where this is a significantly different arrangement from that illustrated and disclosed by Frashour et al. Applicant thus asserts that Frashour et al. cannot be found to anticipate claims 18,19 and respectfully request the Examiner to reconsider this rejection.

35 USC § 103(a) Rejection – Claims 4-7, 15, 16, 22-25

The above-cited claims were rejected by the Examiner under 35 USC 103(a) as rendered obvious by Dial when considered with well-known teachings in the art. In response, applicant asserts that the Dial arrangement, by virtue of the inclusion of v-strip 30, teaches away from the present invention. There is no teaching of leaving an open space between the projection/tongue and recess/groove, as is required in the base claims of the present invention, from which the above-cited claims depend. Thus, applicant asserts that the arrangement of Dial still exhibits the cantilever problem solved by the arrangement of the present invention and, therefore, cannot be found to render obvious the teaching of the present invention. Applicant thus respectfully requests the Examiner to reconsider this rejection and find the above-cited claims to be in condition for allowance.

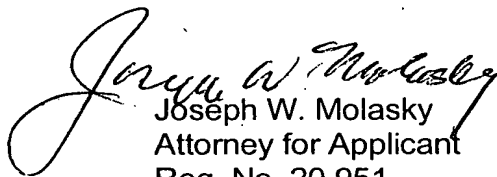
35 USC § 103(a) Rejection – Claims 17 and 20 – 21

Lastly, the Examiner rejected claims 17 and 20 – 21 as rendered obvious under 35 USC 103(a) by Frashour et al. when considered with the well-known state of the art. In response, applicant asserts that Frashour et al. does not disclose or suggest any arrangement where the beveled end faces extend from the front to the read sides of a panel piece, a requirement defined in both claim 17 and claim 18 (from which claims 20 and 21 depend). Without this teaching, applicant asserts that Frashour et al. cannot be found to obviate the subject matter of these claims and respectfully requests the Examiner to reconsider this rejection.

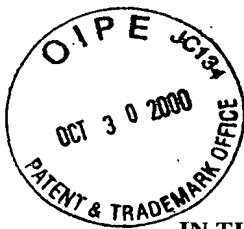
SUMMARY

In summary, the present application contains claims 1-25, where a number of the claims have been amended to more clearly define the subject matter of the present invention and distinguish its teaching from that of the cited references. Applicant believes that the case, in its present form, is in condition for allowance and respectfully requests an early and favorable response from the Examiner in that regard. If for some reason or other the Examiner does not agree that the case is ready to issue, and that an interview or telephone conversation would further the prosecution, he is requested to contact applicant's attorney at the telephone number listed below.

Respectfully submitted,


Joseph W. Molasky
Attorney for Applicant
Reg. No. 20,951
4 S. Limekiln Pike
Chalfont, PA 18914
Phone: (215) 822-3324

Certification Attached.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Terminal Disclaimer To Obviate A Provisional Double Patenting Rejection Over A Pending Second Application

Applicant : Glenn Bostock

Application No.: 09/490,268

Filed : January 24, 2000

For: WALL PANELING ASSEMBLY AND SYSTEM

Examiner: J. Thissell

Case No. : 720A

Art Unit : 3635

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The owner, Bostock Company, Inc., the owner of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term granted on pending second application Application Number 09/235,620, filed on January 22, 1999, the term being defined in 35 U.S.C. 154 to 156 and 173, as shortened by any terminal disclaimer filed prior to the grant of any patent on the pending second application. The owner hereby agrees that any patent so granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

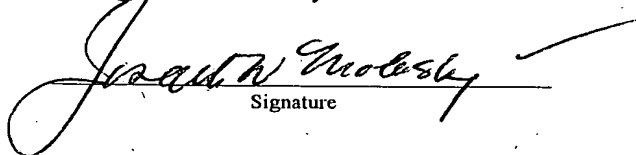
In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record.


Signature


Date

Joseph W. Molasky
Typed or printed name

- ☒ Terminal Disclaimer fee required by 37 CFR 1.20(d) is included.

*Joseph W. Molasky
& Associates*

Attorneys at Law

*Patents, Trademarks
Copyrights*

*Patents International
Chaffont Centre
4 Limekiln Pike
Chaffont, PA 18914*

Cable Address: JOMOPAT, Chaffont

Phone: (215) 822-3324

Facsimile: (215) 997-2801

January 16, 2001

Glenn H. Bostock
440 Blairmill Road
Hatboro, PA 19440

Re: U.S. CIP Appln. No. 09/490,268; G. H. BOSTOCK
Corresponding Parent: U.S. Serial No. 09/235,620
Case 720A; A NOVEL PANELING SYSTEM

Dear Glenn:

Enclosed is our reply to the First Action (Paper No. 3) issued in your captioned application:

- 1) Amendment; Rule 111 Inclusive of Amendment Transmittal Letter;
and
- 2) Terminal Disclaimer to Obviate a Provisional Double Patenting
Rejection.

I reported on the Official Action (Paper No. 3) in my letter to you dated June 12, 2000.

As you will see, we extensively amended Claims 1, 2, 12, 13, 17 and 18 to distinguish over the cited prior art, namely, Dail and Frashour. These amendments are in accord with the proposals set forth in my letter of June 12.

The Terminal Disclaimer was filed so that we might overcome the double patenting rejection based on 'parent' Serial No. 09/235,620; however, I cannot assure you that the Examiner will relent on this issue because there is, in fact, claim overlap between this case and your parent application and further amendment may be necessary. As a rule, however, a double patenting rejection can be overcome if applicant agrees to have both applications issue on the same day because that avoids any unlawful extension of the patent monopoly.

G. H. Bostock

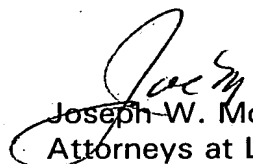
January 16, 2001

-2-

When we have the Examiner's decision, I will give you a further report.

If you have questions please let me know.

Kindest regards,


Joseph W. Molasky & Associates
Attorneys at Law

JWM/lrd

Enclosures: Amendment
Debit Note No. 4649



EXHIBIT G
Page 1 of 9

**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/490,268 01/24/00 BOSTOCK

G 720a

EXAMINER

THISSELL, J

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED:

01/08/01

PM82/0108
Joseph W Molasky & Associates
4 S Limekiln Pike
Chalfont PA 18914

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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JAN 13 2004

OFFICE OF PETITIONS

Office Action Summary

Application No.

09/490,268

Applicant(s)

BOSTOCK, GLENN H.

Examiner

Jennifer I Thissell

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2000.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

Application/Control Number: 09/490,268
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Page 2

DETAILED ACTION

Double Patenting

1. It should be noted that the Terminal Disclaimer filed October 30, 2000 is not considered proper and therefore has not been entered. However, since application # 09/235620 has been abandoned and is no longer co-pending with the instant application, applicant is not required to resubmit the Terminal Disclaimer because it is no longer necessary.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 17 and 18, as amended, are conflicting and fail to clarify the panel piece. It is unclear to the Examiner as to how there can exist a beveled recess that extends from the "front side" to the "rear side" of the panel, while at the same time there is a projecting flange of which the recess is defined by. It is not possible from the description to have a beveled recess that extends across entire panel from front to rear side if there is also a projecting flange portion.

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Art Unit: 3635

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Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3 and 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Dail ('640). Regarding claim 1, Dail discloses a panel piece 22 having front and rear sides, a pair of opposing side faces and opposing edge faces, one edge face being an elongate projection 26 with an end termination, the other edge face being an elongate recess including a bottom surface, the recess being of greater depth than the length of the projection. It can be seen in Figure 3 that when like panels are joined the projection end termination does not contact the recess bottom surface, leaving an open space therebetween.

Regarding claim 12, Dail discloses a panel piece 22 having front and rear sides, a pair of opposing edge faces, one edge face being a tongue 26 between a front edge flange and a rear edge flange, the other edge face being a groove including a rear leg, a front leg, and a base member, the rear leg being greater in length than the front leg. It can be seen in Figure 3 that if like panels would be joined, the rear edge flange of the first edge face rests upon the rear leg of the second edge face, leaving an open space therebetween.

Regarding claims 2, 3, 13, and 14, Dail discloses panel pieces that are joined to one another and are secured to a support structure 20, which is considered a studded frame.

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Art Unit: 3635.

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Regarding claims 8, 9, and 11, the panel assembly inherently includes top and bottom panel pieces that have grooves, as all the disclosed panel pieces do, and are located at the uppermost and lowermost locations of the assembly, when in reference to the entire structure.

Regarding claim 10, Dail's indented shadow line can be seen in Figure 3 on the front face (bottom of picture) where the two panels meet.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4-7, 15, 16, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dail ('640). Dail discloses an assembly as stated above in section 3, except for the following features:

Regarding claims 4, 15, and 23, Dail does not state that the support structure is a wall of an elevator. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use Dail's paneling assembly in an upright position an elevator wall, since basic panel pieces with tongue and groove interconnections are commonly used with floors, walls, and ceilings. Also, to be used in an elevator would be an obvious use of a panel system, since the assembly could be attached to any type of room or wall with a basic support structure.

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Regarding claims 5-7, 16, and 24, Dail teaches a panel assembly that is nailed or otherwise fastened to the support members (column 2, lines 15-16). It does not specifically state that screw or adhesive means are used, however, these are alternative fastening means that are common and well known in the art of building construction. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a screw or adhesive to fasten the panels to the support member, since screws would provide more of a secure hold between structural elements and an adhesive would invisibly secure the elements.

Regarding claims 22-25, since all of the structural elements are disclosed and discussed in the sections above, the steps of securing panels to a support structure, interlockingly engaging the panel pieces, and forming a line in the form of a space which is disclosed, are considered the obvious method of creating a panel assembly.

Allowable Subject Matter

5. Claims 17-21 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.
6. The following is a statement of reasons for the indication of allowable subject matter: Regarding claims 17 and 18, prior art fails to disclose panel pieces disposed atop one another, each piece having a beveled recess which

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extends from the front side of the panel piece, and a projecting second flange that has a length that is greater than that of the first flange so that when pieces are joined it results in an elongated space between them.

Response to Arguments

7. Applicant's arguments filed October 30, 2000 have been fully considered but they are not persuasive.

In response to applicant's argument that Dail has a v-shaped reinforcing strip disposed within the space between the joined pieces, and therefore does not have an "open space" between mated panels, the Examiner takes the position that the phrase "open space" is more broad in scope, and that there is in fact an open space between the panels when joined. Even though there is a reinforcement strip in between taking up some of the open space, there is still an open space between the panels.

Regarding applicant's argument that Dail's invention allows the cantilever force to continue and exist unlike the instant invention, it should be noted that the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

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Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I Thissell whose telephone number is (703) 306-5750.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

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Art Unit: 3635


CHRISTOPHER T. KENT
PRIMARY EXAMINER

 January 3, 2001

*Joseph W. Molasky
& Associates*

Attorneys at Law

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Phone: (215) 822-3324

Facsimile: (215) 997-2801

January 25, 2001

Glenn H. Bostock
440 Blairmill Road
Hatboro, PA 19440

Re: U.S. CIP Appln. No. 09/490,268; G. H. BOSTOCK
Corresponding Parent: U.S. Serial No. 09/235,620
Case 720A; A NOVEL PANELING SYSTEM

Dear Glenn:

Enclosed is a Second Action received in your captioned application:

Official Action Dated January 8, 2001 (Paper No. 6)

Claims 1-21 are in this application. No claims have been allowed.

The following paragraphs have been numbered to correspond to the like-numbered paragraphs in the Official Action.

2, 5 and 6; Claims 17-21: These claims are rejected on formal grounds only. The Examiner has dropped the rejection on art and he will allow these claims provided we amend and overcome what he perceives to be undue breadth in the definition of the "front side" and "rear side" of your panel pieces.

Claims 17-21 cover the beveled panel pieces *per se* (Claim 17) and the assembly which results when these pieces are combined (Claim 18). These embodiments are illustrated Figures in 11 and 12 of your drawings.

We can attend to the amendment without instructions.

G. Bostock

January 25, 2001

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3 and 4; Claims 1-3, 4-7, 8-14, 16 and 22-25: These claims cover subject matter which is also covered by your parent Serial No. 235,620. These claims are rejected as unpatentable over Dail who shows panel pieces used to create a ceiling.

We argued in our previous Amendment that the panel pieces of Dail, when assembled, abut one another and thus fail to provide that space between panel pieces which is needed to avoid a cantilever force effect. A clear picture of the abutting panel pieces of Dail is shown in Figures 2 and 3.

The Examiner has argued (Official Action; page 6, paragraph 7) that there is in fact an "open space" between Dail's panel pieces, albeit with a V-shaped reinforcing strip. An illustration of this V-shaped strip is shown in Dail's Figure 3.

The Examiner is only partially correct in his assessment.

Dail does show, in Figure 3, a space between the tongue and groove of two adjoining panel pieces; however, the front and rear legs of these pieces are in abutting contact with one another and this contact transfers the exerted force onto each front leg and each rear leg. As a result there is present, in Dail, a cantilever force effect between the abutting panel pieces both in the front and the back.

By contrast, in your invention, as claimed, the cantilever force effect is eliminated by transferring the exerted force solely onto the rear leg and shoulder of adjoining panel pieces. As a result, the shear force is distributed evenly and solely onto these abutting portions only.

If you agree, we will make such an argument and amend to distinguish over Dail.

If you are not agreement, please give us your advice.

1. The Examiner is incorrect in holding that your parent application, Serial No. 09/235,620, has been abandoned (Official Action, page 2).

Serial No. 09/235,620 is still pending and, therefore, we shall submit again the Terminal Disclaimer which the Examiner assumes is no longer needed. Once the Disclaimer is accepted, it should avoid the double patenting rejection raised in the First Action.

The deadline for response is set to expire April 8, 2001; however, your prompt

G. Bostock

January 25, 2001

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instructions would be appreciated.

Kindest regards,


Joseph W. Molasky & Associates
Attorneys at Law

JWM/lrd

Enclosures: Second Official Action
Debit Note No. 4652



CERTIFICATE OF MAILING

Applicant: GLENN BOSTOCK

Serial No.: 09/490,268

Atty. Case: 720A

Correspondence: AMENDMENT; RULE 116

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JUL 23 2001
3600 MAIL ROOM

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to:

Commissioner of Patents & Trademarks
Washington, D.C. 20231

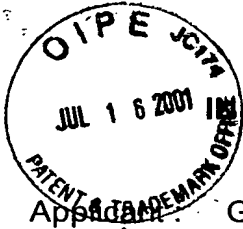
on July 9, 2001

Typed or printed name of person signing this certificate:

Joseph W. Molasky

Signature: Joseph W Molasky

#?
7/11/01
(N.E.)



THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: G. Bostock

Examiner: J. Thissell

Serial No.: 09/490,268

Group Art: 3635

Filed : January 24, 2000

Case : 720A

Title : WALL PANELING ASSEMBLY AND SYSTEM

Box Amendment
Commissioner of Patents and Trademarks
Washington, D.C. 20231

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AMENDMENT; RULE 116

Sir:

In response to the Official Action dated January 8, 2001 (Paper No. 6), please amend as follows:

IN THE SPECIFICATION:

Page 15, line 23: Immediately following "projecting" add —first —.

Page 16, line 6: Immediately following "projecting" add — second —.

Page 16, line 7: Immediately following "projecting" add —second —.

Page 16, line 7: Immediately preceding the word "flange" add — first —.

Page 16, line 14: Immediately following the phrase "bottom side" add — 164 —

IN THE CLAIMS:

Please amend as follows:

Claim 1, line 12: Delete "open" and, in lieu thereof add — empty —.

Claim 2, line 14: Delete "open" and, in lieu thereof, add — empty —.

Claim 12, line 12: Delete "open" and, in lieu thereof, add — empty —.

Claim 13, line 14: Delete "open" and, in lieu thereof, add — empty —.

17. (*Twice Amended*) A panel piece for constructing a paneled assembly made up of any number of such panel pieces disposed atop one another, said panel piece comprising:

a front side and a rear side;

two opposing edge faces, one edge face being formed with a beveled recess [which extends from said front side to said rear side of the panel piece, said recess being] defined by a projecting first flange;

a second edge face [of said two opposing edge faces], also with a beveled recess, which [extends from said front side to said rear side and which] is matching of the beveled recess formed in the first edge face, said recess being defined by a projecting second flange the length of which is greater than that of the first flange, such that the joining of two like panel pieces results in an elongate space which demarcates one piece from another.

18. (*Twice Amended*) A panel assembly comprised of a plurality of like panel pieces joined to one another in matching engagement and secured to a support structure, each panel piece comprising:

a front side and a rear side;

two opposing edge faces, one edge face being formed with a beveled recess [which extends from said front side to said rear side of the panel piece, said recess being] defined by a projecting first flange [whose outer wall is coextensive with the rear side of said panel piece];

a second edge face [of said two opposing edge faces], also with a beveled recess, which [extends from said front side to said rear side and which] is

matching of the beveled recess formed in the first edge face, said recess being defined by a projecting second flange the length of which is greater than that of the first flange, such that the joining of two like panel pieces results in an elongate space which demarcates one piece from another.

Cancel Claims 22-25.

REMARKS

Claims 1-25 are in this application. No claims have been allowed; however, Claims 17-21 are said to contain allowable subject matter and they would be in condition for allowance if the informalities rejection were overcome (35 USC 112, second paragraph).

It is requested that this Amendment be entered because it avoids the Final Rejection and places all claims in condition for allowance.

If this Amendment does not place the application in condition for allowance, it is requested that it be entered for purposes of appeal because, in the very least, it overcomes the rejection of Claims 17-21 on indefiniteness (35 USC 112) and reduces the issues on appeal.

A Notice of Appeal is being simultaneously filed.

AMENDMENTS

The specification has been amended at page 16 to identify the disclosed flanges as a "first" flange and "second" flange. These flanges are shown in Figure 11 as items 158 and 162, respectively.

Antecedent basis for a first flange and second flange can also be found in the text in the paragraphs bridging pages 15 and 16, specifically, page 15, line 23 and page 16, lines 6 and 8.

The specification has also been amended at page 16, line 14, to include a reference to the "bottom side" of flange 158. This "bottom side" appears in corrected Figure 12 as item "164." This correction is covered by a letter to the Draftsperson which has been simultaneously filed; it is shown in red in an attached copy of Figure 12.

'Informalities' Rejection; Section 112

Claim 17-21 are rejected as indefinite because they refer to a "front side" and "rear side" (Claims 17 and 18) which is said to be inconsistent with the panel piece shown in the Drawings. Specifically, the Examiner questions "how there can exist a beveled recess that extends from the "front side" to the "rear side" of the panel, while at the same time there is a projecting flange of which the recess is defined by" (Official Action, page 2, last paragraph).

This Amendment would cure the confusion by deleting from Claim 17 and Claim 18 any and all reference to "front side" and "rear side."

The novelty in applicant's panel piece lies in its beveled recess and two projecting flanges, the second of which is greater in length than the first so that when the pieces are fitted together, an elongate space is inherently formed. This elongate space demarcates one adjoining panel piece from the other.

This Amendment merely clarifies the mating of the panel pieces. It avoids all reference to a "front side" and "rear side" and, instead, defines the panel pieces in terms of the beveled recess and the elongate space which results when the pieces are assembled. Antecedent basis for this amendment can be found in the paragraphs bridging pages 15 (beginning with line 13) and 16 (ending with line 22). Additional support can also be found in the Drawings, Figures 11 and 12.

Claim Rejection; 35 USC 102

Claims 1-3 and 8-14 are rejected as being anticipated by Dail [Section 102(b)]. Dail is said to show these features of applicant's panel piece:

1. Front and rear sides;
2. Opposing side faces;
3. Opposing edge faces;
4. An elongate projection extending from one edge face of a panel piece;
5. An elongate recess extending from the opposing edge face of the panel piece; the recess being of greater depth than the length of the projection; and

6. An open space between pairs of panel pieces.

In Dail, the open space is item 28 (Figure 3) and it contains within space 28 a "V-shaped reinforcing strip" 30.

In applicant's prior amendment, it was argued that the open space in Dail is not truly 'open' because it includes a "reinforcing strip" 30; however, the Examiner has held that an "open space" can be open even if it includes a "reinforcing strip". The rationale for this is that the reinforcing strip takes up only some of the 'open space', not all of it, so that strictly speaking there is still some 'opening' between the joined panels.

In reply, the undersigned proposes, by this Amendment, to substitute 'empty' for "open" in independent Claims 1, 2, 12 and 13. An 'empty space' is critical to applicant's invention. It is needed so that one panel piece can engage the rear leg and shoulder of the panel piece to which it is joined. This engaging contact avoids the cantilever force effect associated with prior art assemblies and, instead, it transfers the exerted force onto the rear leg and shoulder of the adjoining panel piece. As a result, there is created a shear force which is distributed evenly along the length of flange 36 and shoulder 38 (Figure 3).

'Anticipation' requires identity of invention, that is, the invention claimed must be the same as that of the reference, and the present Amendment avoids this rejection because there is no "empty space" between the panel pieces of Dail. Absent any such 'empty space', the rejection on Dail is improper and should be dropped.

Also, in Dail the panel pieces are joined horizontally to construct a ceiling and the weight of the panels is borne entirely by furring strips shown as 20 in Figure 1.

By contrast, applicant's panel pieces are used to create wall assemblies. The panel pieces are disposed one above the other and the weight of each panel piece is cumulative so that a panel piece at the bottom of a wall bears appreciably more weight than a panel piece at the top.

Accordingly, applicant's invention overcomes a problem which Dail did not even envision because the latter relates to a type of constructing in which the effects of cantilever force is not a problem.

Regarding Claim 12: Dail shows, in Figure 3, a space between adjoining panel pieces; however, the space formed is taken up in large part by a reinforcing strip 30.

By contrast, applicant's Claim 12, as amended, contains no such reinforcing strip and the space between the joined panel pieces is "empty space." Absent such an "empty space", the rejection on Dail should be dropped.

Regarding Claims 2, 3, 13 and 14: these claims describe joined panel pieces that are secured to a support structure. Dail shows panel pieces joined to furring strips to create a ceiling; however, there is no 'empty space' between the joined panels. An 'empty space' is critical to applicant's invention and, absent such a teaching, the rejection on the ground of anticipation should be withdrawn.

Claim Rejection; 35 USC 103

Claims 4-7, 15, 16 and 22-25 are rejected as being unpatentable over Dail on the ground of 'obviousness'.

Claims 4-7, 15 and 16 are dependent on claims (Claims 2 and 13) which applicant has already shown to be distinguishable over Dail (*supra*). Those arguments apply equally to this rejection and they are incorporated herein by reference.

Claims 4-7, 15, 16 and 22-25 provide scope to applicant's invention. They cover features which, if claimed independently, would be obvious to those skilled in the art. Claims 4 and 15, for example, recite an elevator wall as a support structure for applicant's panel pieces. Claims 6, 7 and 16 provide for screws and adhesives as a means for securing panel pieces to an elevator wall. These are not patentable features *per se*; however, they have never been employed in applicant's novel assembly as claimed; an assembly which has been shown to be patentable over the cited prior art (Dail).

The courts have consistently held that an applicant has a right to submit claims which cover obvious features so long as those claims are dependent upon an allowable claim. *In re McCam*, 212 F.2d 797, 101 USPQ 411,413 (CCPA, 1954). Applicant has done no more than this.

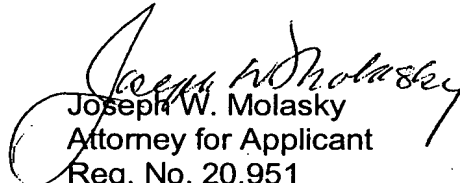
The fact that these claims are dependent on an allowable claim makes them allowable too because there is incorporated into each dependent claim those features which make the independent claims patentable over the cited art.

The rejection of method Claims 22-25 is moot because those claims have been cancelled.

Bostock 720A

For these reasons, it is requested that the rejection be dropped and this application passed to issue; however, if the Examiner should find that any issue remains, he is requested please to phone the undersigned so as to expedite the allowance procedure and avoid the necessity for filing the Brief on Appeal.

Respectfully submitted,


Joseph W. Molasky
Attorney for Applicant
Reg. No. 20,951
4 S. Limekiln Pike
Chalfont, PA 18914
Phone: (215) 822-3324

Enclosures: Notice of Appeal
Certification



1.121 AMENDMENT CHANGES

A panel piece comprised of a front side, a rear side, a pair of opposing side faces and a pair of opposing edge faces for interlockingly engaging the edge faces of a like panel;

one edge face of said pair of opposing edge faces including an elongate projection with an end termination and,

a remaining edge face of said pair of opposing edge faces comprising an elongate recess including a bottom surface for receiving said projection;

said recess being of greater depth than the length of said projection, such that when the panel is joined to a like panel said elongate projection end termination does not contact said elongate recess bottom surface, leaving an empty space therebetween, to afford a demarcation line in the form of an elongate space which extends inwardly from the respective ends of each opposing side face.

2. A panel assembly comprised of a plurality of like panel pieces joined to one another in matching engagement and secured to a support structure, each piece consisting essentially of a front side, a rear side, a pair of opposing side faces and a pair of opposing edge faces for interlockingly engaging the edge faces of a like panel, wherein each panel piece is formed such that

one edge face of said pair of opposing edge faces including an elongate projection with an end termination and,

a remaining edge face of said pair of opposing edge faces comprising an elongate recess including a bottom surface for receiving said projection;

said recess being of greater depth than the length of said projection, such that when the panel is joined to a like panel said elongate projection end termination does not contact said elongate recess bottom surface, leaving an empty space therebetween, to afford a demarcation line in the form of an elongate space which extends inwardly from the respective ends of each opposing side face.

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12. A panel piece comprised of a front side, a rear side and a pair of opposing edge faces for interlockingly engaging the edge faces of a like panel, said panel piece comprising

a first edge face of said pair of opposing edge faces being formed as a tongue between a front edge flange and a rear edge flange;

a second edge face of said pair of opposing edge faces being formed as a groove comprised of a rear leg, a front leg and a base member, said rear leg being greater in length than said front leg;

said tongue being insertable within said groove, the depth of said groove along the rear leg being greater than the length of said tongue, so that in their assembled mode the rear edge flange of said first edge faces rests upon said rear leg of said second edge face so as to form an empty space between the tongue end and the base of the groove.

13. A panel assembly comprised of a plurality of like-panel pieces joined to one another in matching engagement and secured to a support structure, each panel piece consisting essentially of a front side, a rear side and a pair of opposing edge faces for interlockingly engaging the edge faces of a like panel, wherein each panel piece is formed as comprising

a first edge face of said pair of opposing edge faces being formed as a tongue between a front edge flange and a rear edge flange;

a second edge face of said pair of opposing edge faces being formed as a groove comprised of a rear leg, a front leg and a base member, said rear leg being greater in length than said front leg;

said tongue being insertable within said groove, the depth of said groove along the rear leg being greater than the length of said tongue, so that in their assembled mode the rear edge flange of said first edge faces rests upon said rear leg of said second edge face so as to form an empty space between the tongue end and the base of the groove.

17. A panel piece for constructing a paneled assembly made up of any number of such panel pieces disposed atop one another, said panel piece comprising:

- a front side and a rear side;
- two opposing edge faces, one edge face being formed with a beveled recess defined by a projecting first flange;

- a second edge face, also with a beveled recess, which is matching of the beveled recess formed in the first edge face, said recess being defined by a projecting second flange the length of which is greater than that of the first flange such that the joining of two like panel pieces results in an elongate space which demarcates one piece from another.

18. A panel assembly comprised of a plurality of like panel pieces joined to one another in matching engagement and secured to a support structure, each panel piece comprising:

- a front side and a rear side;
- two opposing edge faces, one edge face being formed with a beveled recess defined by a projecting first flange;

- a second edge face, also with a beveled recess, which is matching of the beveled recess formed in the first edge face, said recess being defined by a projecting second flange the length of which is greater than that of the first flange, such that the joining of two like panel pieces results in an elongate space which demarcates one piece from another.



CERTIFICATE OF MAILING

Applicant: GLENN BOSTOCK

Serial No.: 09/490,268

Atty. Case: 720A

Correspondence: NOTICE OF APPEAL

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I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to:

Commissioner of Patents & Trademarks
Washington, D.C. 20231

on July 9, 2001

Typed or printed name of person signing this certificate:

Joseph W. Molasky

Signature:

Joseph W. Molasky

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JAN 13 2004

OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : G. Bostock

Examiner: J. Thissell

Serial No. : 09/490,268

Group Art: 3635

Filed : January 24, 2000

Atty. Case: 720A

Title : WALL PANELING ASSEMBLY AND SYSTEM

BOX AMENDMENT

Commissioner of Patents and Trademarks
Washington, D.C. 20231

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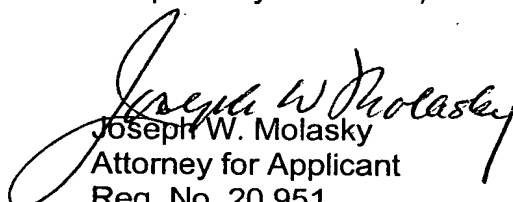
JUL 23 2001

3600 MAIL ROOM

NOTICE OF APPEAL

Applicant hereby appeals to the Patent Trial and Appeal Board from the decision of the Examiner rejecting Claims 1-25. The Appeal Fee (\$155) is enclosed.

Respectfully submitted,


Joseph W. Molasky
Attorney for Applicant
Reg. No. 20,951

4 S. Limekiln Pike
Chalfont, PA 18914
Phone: (215) 822-3324
FAX : (215) 997-2801

Attachment: Certificate of Mailing
Check No. 646.0

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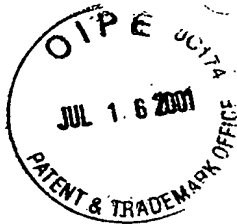
JAN 13 2004

OFFICE OF PETITIONS

1/19/2001 CCHAU1 00000030 09490268

FC:219

155.00 OP



CERTIFICATE OF MAILING

Applicant: GLENN BOSTOCK

Serial No.: 09/490,268

Atty. Case: 720A

Correspondence: Petition for Extension of Time

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JUL 23 2001

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Washington, D.C. 20231

on July 9, 2001

Typed or printed name of person signing this certificate:

Joseph W. Molasky

Signature: Joseph W. Molasky

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JAN 13 2004

OFFICE OF PETITIONS



Atty. Case 720A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Glenn Bostock
Serial No. : 09/490,268
Filed : January 24, 2000
For : WALL PANELING ASSEMBLY AND SYSTEM

Examiner : J. Thissell
Art Unit : 3635
Atty. Case : 720A

Assistant Commissioner for Patents
Washington, D.C. 20231

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JUL 23 2001

PETITION AND FEE FOR EXTENSION OF TIME
UNDER 37 C.F.R. 1.136(A)

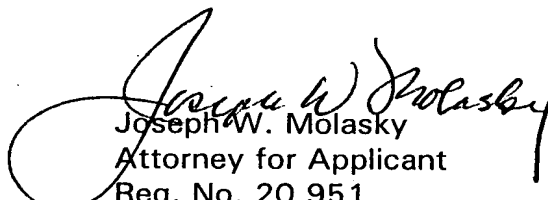
ORIGINAL MAILED 1984

Dear Sir:

Applicant hereby petitions for a three-month extension of time to respond to the Office Action (Paper No. 6) mailed January 8, 2001. A check for the extension fee [37 C.F.R. § 1.17(a)] is attached.

An Amendment responsive to the outstanding Office Action is being filed simultaneously herewith.

Respectfully submitted,


Joseph W. Molasky
Attorney for Applicant
Reg. No. 20,951
4 S. Limekiln Pike
Chalfont, PA 18914
Phone: (215) 822-3324

Enclosure: Check No. 6461
Certificate of Mailing

07/19/2001 CCHAU1 00000030 09490268

02 FC:217 445.00 OP
03 FC:998 10.00 OP



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/490,268 01/24/00 BOSTOCK

G 720a

EXAMINER

PM82/0802

Joseph W Molasky & Associates
4 S Limekiln Pike
Chalfont PA 18914

THISSELL, J

ART UNIT

PAPER NUMBER

3635

DATE MAILED:

08/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.

09/490,268

Applicant(s)

BOSTOCK, GLENN H.

Examiner

Jennifer I Thissell

Art Unit

3635

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 July 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 09 July 2001. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

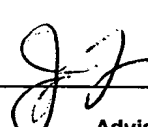
Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet


Carl D. Friedman
Supervisory Patent Examiner
Group 3600



Advisory Action

Part of Paper No. 8

Continuation of 2. NOTE: The amendment changes the scope of the claim(s) in a manner that has not been considered (i.e. "an empty space" between the projection and the recess).

Continuation of 10. Other: Note that if the amendment was entered in an RCE, claims 1 and 12 could still be rejected under Dail 102(b), and claims 17-21 that were only rejected under 112 2nd would be considered allowable over the prior art of record. All of the claims that nclude the new and more limiting phrase "empty space" would be subject to a new search.



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

mv

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/490,268 01/24/00 BOSTOCK

G 720a

PM92/0814
Joseph W Molasky & Associates
4 S Limekiln Pike
Chalfont PA 18914

EXAMINER

THISSELL, J

ART UNIT	PAPER NUMBER
----------	--------------

3635

9

DATE MAILED:

08/14/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Notice of Abandonment

Application No.

09/490,268

Examiner

Jennifer I Thissell

Applicant(s)

BOSTOCK, GLENN H.

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance.
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file new formal drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed new formal drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ The proposed new formal drawings filed on _____ are not acceptable and the period for reply has expired.
 - (c) ☐ No proposed new formal drawings have been received.
4. ☐ The letter of-express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

No response to the Office Action mailed January 8, 2001 has been filed, other than the After Final Amendment (paper #7) filed on July 16, 2001 which was not entered.


Carl D. Friedman
Supervisory Patent Examiner
Group 3600

*Joseph W. Molasky
& Associates*

Attorneys at Law

*Patents, Trademarks
Copyrights*

*Patents International
Chalfont Centre
4 Limekiln Pike
Chalfont, PA 18914*

*Cable Address: JOMOPAT, Chalfont
Phone: (215) 822-3324
Facsimile: (215) 997-2801*

October 17, 2001

Glen H. Bostock
440 Blairmill Road
Hatboro, PA 19440

Re: U.S. CIP Appln. No. 09/490,268; G. H. BOSTOCK
Corresponding Patent: U.S. Serial No. 09/235,620
Case 720A; A NOVEL PANELING SYSTEM

Dear Glen,

Sorry to have kept you waiting; here is my reply to the Examiner's Action:

- (1) Amendment; Rule 116;
- (2) Amended Claims, 37 CFR 1.121;
- (3) Letter to the Draftsperson;
- (4) Amendment Transmittal Letter;
- (5) Notice of Appeal; and
- (6) Certificate of Mailing.

Item (2) is a 'Clean Version' of the claims as amended. It corresponds to the changes presented in the Rule 116 Amendment [Item (1) above]. This 'Clean Version' is the result of a rule change which requires that a clean copy of changes made to the claims during prosecution be submitted so that they might be used for printing when the application is allowed.

The Amendment is self-explanatory; Claims 17-21 are rejected on purely formal grounds and the amendments made should place them in condition for allowance.

Claims 1-3, 4-7, 8-16 and 22-25 are rejected as being unpatentable over the Dail reference which we gave you with our letter of January 25, 2001. This Amendment provides for an "empty space" between panel pieces and this should serve to distinguish your assembly from the prior art (Dail). In Dail there is a 'space' but it is not 'empty' because it contains a "V-shaped reinforcing strip".

G. H. Bostock

October 17, 2001

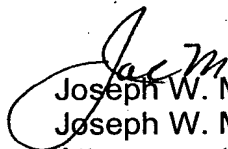
-2-

The drawings were corrected as shown in red in the enclosed copy. As you will see, we added to Figure 12 the numeral 164 so as to bring it into conformity with the text. In the text item "164" is referred to as the "bottom side" of flange 158. Accordingly, the drawings, as corrected, appear to be acceptable in every respect.

When we hear further from the Examiner, I will give you a further report.

The 'Appeal' is procedural only. This application is under Final Rejection and, therefore, it was necessary to file a Notice of Appeal as insurance, in case the Examiner holds that the application is not in condition for allowance and additional time is needed.

Kindest Regards,


Joseph W. Molasky
Joseph W. Molasky & Associates
Attorneys at Law

JWM/kdd

Enclosures: Items 1-6, Supra
Debit Note No. 4813

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JAN 13 2004
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Notes/History

EXHIBIT N
Page 1 of 1

Glenn Bostock, Bostock Company Inc.
135 Horsham Rd.
Horsham PA 19044

Date Range: All Dates

Number of Contacts: 1

Contact :			Joseph Molasky
Note	9/24/2003	5:01 PM	Left mesage asking for a written report on the status of my patent and registration of Bostock ILP
Note	7/28/2003	1:57 PM	Talked with Joe a month or two ago. He said that he had received a letter which he thought said that our patent had gone through in the foreign case.
Note	6/10/2003	11:28 AM	Got Call from Bill Swenson that Vendor at CECA show was copying my product. This is a vendor whom Gino Berube in Ottawa Canada apparently gave my product to copy. Joe will find out the status of my foriegn application. He said to get more info on this vendor.
Note	4/2/2003	3:27 PM	Talked to Joe , Told him his VM was full and I had called him twice lately. He said he would try to get an answer on my patent. I let him know I was getting impatient.
Letter Sent	1/29/2003	5:14 PM	Registered trade mark
Note	1/17/2003	11:32 AM	Called Joe, He said he would contact the patent office to find out the satus of my case.
Letter Sent	6/27/2002	11:19 AM	return

135 Horsham Road, Horsham, PA 19044 • Telephone: (888) 766-7834 • (215) 442-0820 • Fax: (215) 442-0821
E-mail: Bostock@op.net • www.bostockilp.com

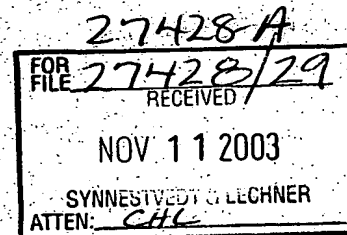
Tuesday, November 11, 2003

Mr. Lindrooth,

Thank you for your help. If you have any questions please call me any time.
Glenn

Glenn Bostock
Bostock Company Inc.
135 Horsham Road
Horsham PA 19044

215-442-0820 ext. 100
Fax 215-442-0821
Home 215-947-0889
Cell 267-625-6350
glennbostock@bostockilp.com





SYNNESTVEDT & LECHNER LLP

Intellectual Property Law

November 24, 2003

CHARLES H. LINDROOTH
ALEXIS BARRON
JOSEPH F. POSILLICO
BRYNA S. SILVER
GARY A. HECHT
THEODORE NACCARELLA
LISA B. LANE
STEPHEN J. DRISCOLL
JOSHUA R. SLAVITT
MARK D. SIMPSON
PATRICK J. KELLY, PH.D.
PETER J. BUTCH III*

MARTIN F. SAVITZKY
ROBERT R. AXENFELD
OF COUNSEL

PAUL SYNNESTVEDT (1897-1950)
HARVEY LECHNER (1909-1954)

Martin P. Hoffman, Esquire
Hoffman, Wasson & Gitler, P.C.
2361 Jefferson Davis Highway
Suite 522
Arlington, VA 22202

Re: Paneling Assembly
U.S. Application No. 09/235,620
U.S. Application No. 09/490,268
S&L Files 24728 USA and 24728-A USA

Dear Marty:

Enclosed herewith are powers to inspect and make copies for the two cases I mentioned to you last week. I recognize that the inventor my have screwed these up by changing the addresses without initialing and dating the changes, but I am hopeful that they will be acceptable for your purposes. If not, please find out if the Patent Office will accept faxed copies.

Please charge time and expenses to the files indicated above.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Chuck', written in dark ink.

Charles H. Lindrooth

CHL/dml
Enclosures

M:\DLarsen\Letters\2003\27428&A.L02

JOHN A. CHIONCHIO, P.E.
GREGORY S. BERNABEO
BRETT T. FREEMAN
GENE J. YAO
CHRISTOPHER P. DAHLING**
H. ERIC FISCHER, PH.D.***
JOSEPH M. IMHOF
JANE E. ALEXANDER
MARILOU E. WATSON

JONATHAN M. DERMOTT, PH.D.
PETER D. MLYNEK, PH.D.
PATENT AGENTS

COZETTE M. McAVOY
SCIENTIFIC ADVISOR

*ADMITTED ONLY IN NJ
**ADMITTED ONLY IN IL
***ADMITTED ONLY IN CO

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Glenn H. Bostock

Appln. No.: 09/235,620

Group No.: 3635

Filed: January 22, 1999

Examiner: J. Thissel

For: WALL PANELING ASSEMBLY AND SYSTEM

(Attorney Docket No. 27428 USA)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

POWER TO INSPECT

Please permit the employees of Hoffman, Wasson & Gitler, P.C., 2361 Jefferson Davis Highway, Suite 522, Arlington, VA 22202, to inspect and make copies of any and all documents in the Patent and Trademark Office file of the above-entitled application.



SIGNATURE OF INVENTOR

Glenn H. Bostock
Type or print name of inventor

~~440 Blairmill Road~~
Address

~~Hatboro, PA 19440~~

215-442-0820 x100
Telephone

135 Horseshoe Rd
19044

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Glenn H. Bostock

Appln. No.: 09/490,268

Group No.: 3635

Filed: January 24, 2000

Examiner: J. Thissel

For: WALL PANELING ASSEMBLY AND SYSTEM

(Attorney Docket No. 27428-A USA)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

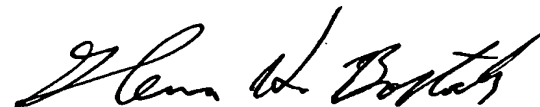
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JAN 13 2004

OFFICE OF PETITIONS

POWER TO INSPECT

Please permit the employees of Hoffman, Wasson & Gitler, P.C., 2361 Jefferson Davis Highway, Suite 522, Arlington, VA 22202, to inspect and make copies of any and all documents in the Patent and Trademark Office file of the above-entitled application.


SIGNATURE OF INVENTOR

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Type or print name of inventor

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December 9, 2003

Charles Lindrooth, Esq.
Synnestvedt & Lechner
2600 Aramark Tower
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Philadelphia, PA 19107-2950

Re: Patent Application File Histories
Serial No. 09/235,620 and
Serial No. 09/490,268
S&L Refs: 24728 USA & 24728-A USA
Our Ref: 03-0956.Pt 2

RECEIVED

JAN 13 2004

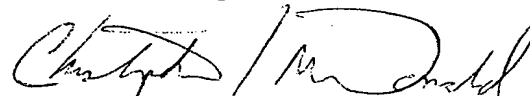
OFFICE OF PETITIONS

Dear Chuck:

Pursuant to your letter of November 24, 2003, we obtained copies of the file histories for the two above-identified applications. Copies of the file histories are enclosed.

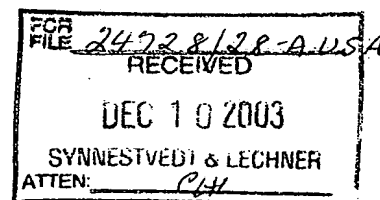
If you require anything further, please do not hesitate to contact us. Our Debit Memorandum No. 2556 is included at this time.

Kindest regards,


Christopher J. McDonald

CJM:eb

Enclosure





SYNNESTVEDT & LECHNER LLP

Intellectual Property Law

December 12, 2003

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Mr. Glenn H. Bostock
Bostock Company, Inc.
135 Horsham Road
Horsham, PA 19044

Re: Paneling Assembly
U.S. Application No. 09/235,620
U.S. CIP Application No. 09/490,268
European Application No. 00909974.8
S&L Files 27428 USA, 27428-A USA, 27428 EPO

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JAN 13 2004

OFFICE OF PETITIONS

Dear Glenn:

This letter is to summarize our telephone discussions late yesterday afternoon concerning the patent and trademark cases handled for you by Steven Molasky.

As advised, the records show that each of your U.S. patent applications has been held to be abandoned by the Patent Office. The first one was abandoned on October 19, 2000. The ground given for abandonment was that no response had been received. There is a note in the Patent Office that there was confirmation of this by telephone, presumable by a call to Mr. Molasky.

The second application was declared to be abandoned due to a failure to respond to a final rejection dated January 8, 2001. There is a remote chance that an acceptable response was mailed and either lost in the mail or lost in the Patent Office. However, that is unlikely. The paper holding the case to be abandoned is dated August 14, 2001.

We also learned that your European application was withdrawn by the European patent attorney appointed to handle the case. Withdrawal occurred in April or May of 2003. A European patent agent I met with yesterday confirmed that it would be difficult to revive this application, but if it is to be attempted, the attempt should be made promptly.

It appears that all of the subject matter of the original application is present in the second application. Accordingly, it should be unnecessary to revive the original application. As a first step, we need to file the enclosed Power of Attorney signed by you. We will then prepare a petition to revive the

SYNNESTVEDT & LECHNER LLP

Mr. Glenn H. Bostock

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December 12, 2003

second application on the grounds that the abandonment was unintentional and/or unavoidable. We will need to have enclosed with it a full response to the final rejection. Such a response cannot simply be a copy of the original response to the final rejection, since that was held by the Patent Office to be not a proper response. In its place, we would file a request for continued examination which would include a set of new claims addressing the objections raised by the Examiner. The estimated cost of preparation and filing of the petition to revive plus the cost of the request for continued examination, excluding government fees, is estimated to be \$5,000. This estimate includes the preparation of a set of claims which address the Examiner's rejections and covers the embodiments in the original application. The government fee for the request for continued examination is \$385. The fee for petitioning where abandonment is unintentional is \$655. If abandonment was unavoidable, the fee is reduced to \$55.

In case you decide that you wish to have an attempt made to revive the European application, we will have to act without delay. The cost of this will depend on how many and which countries you select to have the patent validate in. Assuming five countries, the cost is likely to be \$10,000, inclusive of government fees. If of interest to you, I would contact our European patent associate to get a more precise estimate and a better appraisal of what your chances are.

As I told you yesterday, the attorney doing this work in our office would be John Chionchio. John has been with us for about eight years and is conveniently located to your workplace as he lives in Hatboro. I do not intend to contact Mr. Molasky at this stage but that may become necessary at some stage.

Please call if you have any questions.

Very truly yours,



Charles H. Lindrooth

CHL/dml
Enclosure

December 12, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re\ Application of: Glenn H. Bostock

Appln. No.: 09/490,268 Examiner: J. Thissell

Filed: January 24, 2000 Group Art Unit: 3635

For: WALL PANELING ASSEMBLY
AND SYSTEM

(Atty. Docket No. 27428-A USA)

REVOCATION OF POWER OF ATTORNEY
AND APPOINTMENT OF NEW POWER OF ATTORNEY

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

As an officer authorized to act on behalf of Assignee, Bostock Company, Inc., I hereby revoke all previous powers of attorney and/or authorization of agents given to the attorneys and/or agents of the law firm of Joseph W. Molasky & Associates, 4 S. Limekiln Pike, Chalfont, Pennsylvania 18914, in the above-identified patent application.

I hereby appoint as principal attorneys to prosecute the above-identified patent application and to transact all business in the U.S. Patent and Trademark Office the below-named attorneys and/or agents of the law firm of Synnestvedt & Lechner LLP:

Charles H. Lindrooth, Reg. No. 20,659
Alexis Barron, Reg. No. 22,702
Peter J. Butch III, Reg. No. 23,203
Joseph F. Posillico, Reg. No. 32,290
Mark D. Simpson, Reg. No. 32,942
Theodore Naccarella, Reg. No. 33,023
Patrick J. Kelly, Reg. No. 34,638
Gary A. Hecht, Reg. No. 36,826
Stephen J. Driscoll, Reg. No. 37,564
Lisa B. Lane, Reg. No. 38,217
Joshua R. Slavitt, Reg. No. 40,816

Appln. No. 09/490,268

- 2 -

December 12, 2003

John A. Chionchio, Reg. No. 40,954
Gregory S. Bernabeo, Reg. No. 44,032
H. Eric Fischer, Reg. No. 46,010
Brett T. Freeman, Reg. No. 46,709
Gene J. Yao, Reg. No. 47,193
Jonathan M. Dermott, Reg. No. 48,608

Please direct all future correspondence and telephone
calls as follows:

John A. Chionchio, Esquire
Synnestvedt & Lechner LLP
1101 Market Street, Suite 2600
Philadelphia, PA 19107-2950
Telephone: 215-923-4466
Facsimile: 215-923-2189

Respectfully submitted,

Date: _____

Glenn H. Bostock
President
Bostock Company, Inc.